

State of Utah
Administrative Rule Analysis

NOTICE OF PROPOSED RULE

The agency identified below in box 1 provides notice of proposed rule change pursuant to *Utah Code* Sections 63-46a-4. Please address questions regarding information on this notice to the agency. The full text of all rule filings is published in the *Utah State Bulletin* unless excluded because of space constraints. The full text of all rule filings may also be inspected at the Division of Administrative Rules.

DAR file no:		Date filed:	
Utah Admin. Code ref. (R no.):	R156-55c	Time filed:	
Changed to Admin. Code Ref. (R no.):			

1.	Agency:	Commerce/Division of Occupational and Professional Licensing		
	Room no.:			
	Building:	Heber M. Wells Building		
	Street address 1:	160 East 300 South		
	Street address 2:			
	City, state, zip:	Salt Lake City UT 84111-2316		
	Mailing address 1:	PO Box 146741		
	Mailing address 2:			
	City, state, zip:	Salt Lake City UT 84114-6741		
	Contact person(s):			
	Name:	Phone:	Fax:	E-mail:
	Dennis Meservy	801-530-6375	801-530-6511	dmeservy@utah.gov

(Interested persons may inspect this filing at the above address or at DAR between 8:00 a.m. and 5:00 p.m. on business days.)

2.	Title of rule or section (catchline):
	Construction Trades Licensing Act Plumber Licensing Rules
3.	Type of notice:
	New ___; Amendment XX; Repeal ___; Repeal and Reenact ___
4.	Purpose of the rule or reason for the change:
	The Division and the Plumbers Licensing Board are proposing amendments to this rule to update statute citations as a result of the governing statute, Title 58, Chapter 55 being amended by several bills during the 2008 Legislative Session (HB 401, HB 459, SB 228 and SB 295). Proposed amendments are also clarifying examination requirements and master plumber/residential master plumber supervisory experience and education requirements.
5.	This change is a response to comments from the Administrative Rules Review Committee.
	Yes ___; No XX
6.	Summary of the rule change:

	<p>Throughout the rule, statute citations have been updated where needed. Also throughout the rule the term "rules" has been replaced with "rule" where applicable. Section 302c regarding examination requirements: Under the existing rule an applicant is allowed with prior approval to take the licensing examination twice with at least 30 days between the part of the examination failed. An applicant is given six months to complete the licensing examinations. An applicant who fails the examination twice is to meet with the Board. The Board then outlines a remedial program of education or work experience. The proposed amendments to this section would allow an applicant to take the licensing examination three times with at least 25 days between each test failure. The practical section of the examination is currently given every two months with the anticipation that in the future it may be offered on a monthly basis. The proposed amendment would allow an applicant to retake the practical section of the examination without having to wait approximately 60 days before taking the test again. If an applicant does not pass all sections of the examination within three attempts or within six months, whichever occurs first, the applicant's application for licensure would be denied. Section 302d is being added to clarify the master plumber/residential master plumber supervisory experience and education requirements. Section 501 regarding unprofessional conduct: updated the wording with respect to the failure of a plumbing contractor to certify a plumber's work experience hours.</p>
7.	<p>Aggregate anticipated cost or savings to:</p> <p>A) State budget:</p> <p>The Division will incur minimal costs of approximately \$100 to reprint the rule once the proposed amendments are made effective. Costs incurred will be absorbed in the Division's current budget.</p> <p>B) Local government:</p> <p>The proposed amendments do not apply to local governments. Proposed amendments only apply to licensed plumbers and applicants for licensure as a plumber in various classifications.</p> <p>C) Small businesses (fewer than 50 employees) AND persons other than businesses:</p> <p>The proposed amendments only apply to licensed plumbers and applicants for licensure as a plumber in the various classifications. Some of these classifications to whom the proposed amendments apply may be considered a "small business". Employers often assist their employees with the cost of becoming licensed as a plumber and many of these employers have less than 50 employees. Instead of the ability to test two times, under the proposed amendments an applicant would be able to test a third time. The cost for the testing, depending on the number of test sections taken, would range from \$72 to \$432 per applicant. An applicant who fails the examination after three times may submit a new application which includes a fee of \$110. The number of applicants submitting a new application or the number of applicants needing to retake sections of the licensing examination is not known to the Division. However, the numbers should be reduced due to an applicant's ability to take the examination one additional time. Currently those applicants who fail the examination after two attempts are required by the Board to attend a semester of school as remedial education. With the proposed amendments, the remedial education provision is removed thus potentially saving an applicant both time and money at an average of \$454 for a semester of school.</p>
8.	<p>Compliance costs for affected persons ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization or any character other than an agency):</p> <p>The proposed amendments only apply to licensed plumbers and applicants for licensure as a plumber in the various classifications. Instead of the ability to test two times, under the proposed amendments an applicant would be able to test a third time. The cost for the testing, depending on the number of test sections taken, would range from \$72 to \$432 per applicant. An applicant who fails the examination after three times may submit a new application which includes a fee of \$110. However, the numbers should be reduced due to an applicant's ability to take the examination one additional time. Currently those applicants who fail the examination after two attempts are required by the Board to attend a semester of school as remedial education. With the proposed amendments, the remedial education provision is removed thus potentially saving an applicant both time and money at an average of \$454 for a semester of school.</p>
9.	<p>Comments by the department head on the fiscal impact the rule may have on businesses:</p>

	This rule filing permits applicants six months and three opportunities to take required examinations; as required by recent statutory changes to the Construction Trades Licensing Act, adopts education and experience requirements for master plumbers and master residential plumbers; and makes it unprofessional conduct to fail to certify an employee's experience and supervisory hours. No fiscal impact to businesses is anticipated from this filing beyond those addressed in the statutory amendment and those discussed in the rule summary. Francine A. Giani, Executive Director														
10.	This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required): Subsections 58-1-106(1)(a), 58-1-202(1)(a) and Section 58-55-101														
11.	This rule adds, updates, or otherwise changes the following titles of materials incorporated by references (a copy of materials incorporated by reference must be submitted to DAR; if none, leave blank): 														
12.	The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the <i>Utah State Bulletin</i> . See Section 63-46a-5 and Rule R15-1 for more information.) A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy): 10/31/2008 B) A public hearing (optional) will be held: <table border="1"> <tr> <td>on (mm/dd/yyyy):</td><td>at (time):</td><td>At (place):</td></tr> <tr> <td>10/29/2008</td><td>9:00 am</td><td>160 East 300 South, Conference Room 474, Salt Lake City, Utah</td></tr> <tr> <td></td><td></td><td></td></tr> <tr> <td></td><td></td><td></td></tr> </table>			on (mm/dd/yyyy):	at (time):	At (place):	10/29/2008	9:00 am	160 East 300 South, Conference Room 474, Salt Lake City, Utah						
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10/29/2008	9:00 am	160 East 300 South, Conference Room 474, Salt Lake City, Utah													
13.	This rule change may become effective on (mm/dd/yyyy): 11/07/2008 NOTE: The date above is the date on which this rule MAY become effective. It is <i>NOT</i> the effective date. After the date designated in Box 12(A) above, the agency <i>must</i> submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.														
14.	Indexing information -- keywords (maximum of four, in lower case, except for acronyms (e.g., "NASA") or proper nouns (e.g., "Medicaid")): <table border="1"> <tr> <td>occupational licensing</td><td>licensing</td></tr> <tr> <td>plumbers</td><td>plumbing</td></tr> </table>			occupational licensing	licensing	plumbers	plumbing								
occupational licensing	licensing														
plumbers	plumbing														
15.	Attach an RTF document containing the text of this rule change (filename):		R156-55c.pro												
To the agency: Information requested on this form is required by Sections 63-46a-4, 5, 6, and 10. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i> , and delaying the first possible effective date.															
AGENCY AUTHORIZATION															
Agency head or designee, and title:		F. David Stanley, Director	Date (mm/dd/yyyy): 09/11/2008												

R156. Commerce, Occupational and Professional Licensing.

R156-55c. Construction Trades Licensing Act Plumber Licensing Rule[§].

R156-55c-101. Title.

Th[ese]is rule[s-are] is known as the "Construction Trades Licensing Act Plumber Licensing Rule[§]".

R156-55c-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 55, as used in Title 58, Chapters 1 and 55 or th[ese]is rule[§]:

(1) "Board" means the Plumbers Licensing Board.

(2) "Plumber" means apprentice plumber, residential apprentice plumber, journeyman plumber, and residential journeyman plumber.

(3) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 55, is further defined in accordance with Subsection 58-1-203(1)(e), in Subsection R156-55c-501.

R156-55c-103. Authority - Purpose.

Th[ese]is rule[s-are] is adopted by the division under the authority of Subsection 58-1-106(1)(a) to enable the division to administer Title 58, Chapter 55.

R156-55c-302a. Qualifications for Licensure - Application Requirements.

In accordance with Subsections 58-1-203(2) and 58-1-301(3), the application requirements for licensure in Section 58-55-302 are defined, clarified, or established as follows:

(1) an applicant for licensure shall submit an application for license only after having met all requirements for licensure set forth in Section 58-55-302 and th[ese]is rule[§]; and

(2) the application must be accompanied by all documents or other evidence required demonstrating the applicant is qualified for licensure.

R156-55c-302b. Qualification for Licensure - Training and Instruction Requirement.

In accordance with Subsections 58-1-203(2) and 58-1-301(3), the training and instruction requirements for licensure in Subsection 58-55-302(3)([a]c) and ([b]d) are defined, clarified, or established as follows:

(1) An applicant for a journeyman plumber's license shall demonstrate successful completion of the requirements of either paragraph (a) or (b):

(a)(i) 8,000 hours of training and instruction in not less than four years that meets the requirements of Subsections R156-55c-302b(4) and (6).

(ii) the 8,000 hours shall include 576 clock hours of related classroom instruction that meets the requirements of Subsection R156-55c-302b(5);

(iii) the apprenticeship shall be obtained while licensed as an apprentice plumber or residential apprentice plumber;

(iv) the apprenticeship shall include on the job training and instruction in seven of the nine work process areas listed in Table I; and

(v) the hours obtained in any work process area shall be at least the number of hours listed in Table I.

(b)(i) 16,000 hours of on the job training and instruction in not less than eight years;

(ii) the apprenticeship shall be obtained while licensed as an apprentice plumber;

(iii) the hours shall include on the job training and instruction in seven of the nine work process areas listed in Table I; and

(iv) the hours obtained in any work process shall be at least the number of hours listed in Table I.

TABLE I
Training and Instruction

Work Process	Minimum Hours
A. Use of hand tools, equipment and pipe machinery	200
B. Installation of piping for waste, soil, sewer and vent lines	2,000
C. Installation of hot and cold water for domestic purposes	1,400
D. Installation and setting of plumbing appliances and fixtures	1,400
E. Maintenance and repair of plumbing	600
F. General pipe work including process and industrial hours	600
G. Gas piping or service piping	400
H. Welding, soldering and brazing as it applies to the trade	100

I. Service and maintenance of gas
controls and equipment

100

(2) An applicant for a residential journeyman plumber's license shall demonstrate successful completion of the requirements of paragraph (a) or (b):

(a)(i) 6,000 hours of training and instruction in not less than three years that meets the requirements of Subsections R156-55c-302b(4) and (6).

(ii) the 6,000 hours shall include 432 clock hours of related classroom instruction that meets the requirements of Subsection R156-55c-302b(5);

(iii) the 6,000 hours shall be obtained while licensed as an apprentice plumber or residential apprentice plumber;

(iv) the apprenticeship shall include on the job training and instruction in six of the eight work process areas listed in Table II; and

(v) the hours obtained in any work process area shall include at least the number of hours listed in Table II.

(b)(i) 12,000 hours of experience in not less than six years which has been documented using a form provided by the division;

(ii) the experience shall be obtained while licensed as an apprentice plumber or residential apprentice plumber;

(iii) at least 9,000 hours of experience shall be directly involved in the plumbing trade;

(iv) the hours shall be in six of the eight work process areas listed in Table II; and

(v) the hours obtained in any work process area shall include at least the number of hours listed in Table II.

TABLE II
Training and Instruction

Work Process	Minimum Hours
A. Use of hand tools, equipment and pipe machinery	100
B. Installation of piping for waste, soil, sewer and vent lines	1,600
C. Installation of hot and cold water for domestic purposes	1,200

D. Installation and setting of plumbing appliances and fixtures	1,000
E. Maintenance and repair of plumbing	600
F. Gas piping or service piping	400
G. Service and maintenance of gas controls and equipment	100
H. Welding, soldering and brazing as it applies to the trade	100

(3) A licensed residential journeyman plumber applying for a journeyman plumber's license shall complete 2,000 hours of on the job training in industrial or commercial plumbing while licensed as an apprentice plumber or residential apprentice plumber, which shall include successful completion of an approved fourth year course of classroom instruction.

(4) On the job training and instruction required in this section shall include measurements of an apprentice's performance in the plumbing trade.

(5) Formal classroom instruction required by this section shall meet the following requirements:

(a) instruction shall be conducted by an entity approved by the Board of Regents or by another entity that demonstrates to the division and board that it conducts equivalent classroom instruction; and

(b) instruction shall be conducted by competent qualified staff and shall include measures of competency and achievement level of each apprentice.

(6) Apprentice plumbers and residential apprentice plumbers shall engage in the plumbing trades only in accordance with the following:

(a) except as provided in Subsection 58-55-302(3)([e]e)(ii) for fourth through tenth year apprentices, while engaging in the plumbing trade, an apprentice plumber or residential apprentice plumber shall be under the immediate supervision of a journeyman plumber for commercial or industrial work, and by a residential journeyman or journeyman plumber for residential work;

(b) the apprentice shall engage in the plumbing trade in accordance with the instruction of the supervising plumber; and

(c) the apprentice shall work in a ratio of not to exceed two apprentice plumbers to one supervising plumber.

R156-55c-302c. Qualifications for Licensure - Examination Requirements.

In accordance with Subsections 58-1-203(2) and 58-1-301(3), the examination requirements for licensure in Subsection 58-55-302(1)(c)(i) are defined, clarified, or established as follows:

(1) The applicant shall obtain a score of 70% on the Utah Plumbers Licensing Examination which shall consist of a written section and practical section.

(2) Admission to the examinations is permitted after the applicant has completed all requirements for licensure set forth in Sections R156-55c-302a, R156-55c-302b and R156-55c-302c.

(3) An examinee who passes one section of the Utah Plumbers Licensing Examination and fails the other section shall be required to retake and pass only the section failed.

(4) If an applicant fails one or more sections of the examination, the applicant shall retake the section of the examination failed no more than two additional times with at least 25 days between tests. ~~[An examinee who fails either or both sections of the Utah Plumbers Licensing Examination two times shall not be permitted to retake the examination until:~~

~~—— (a) the examinee completes a remedial program of education of one semester of school for each test section failed twice; or~~

~~—— (b) the examinee meets with the Board and completes an alternate remedial program outlined by the Board.~~

~~—— (c) After completing the required remedial program, the examinee shall retake the failed portions of the examination a maximum of two times of the next two examinations offered.~~

~~—— (d) Failure to pass the failed portions of the examination upon retake shall result in denial of the application for licensure. An applicant continuing to seek licensure shall reapply for licensure by filing a new application with the required fee and may do so only after completing additional remedial education and experience as determined by the division and the board.]~~

(5) If an applicant does not pass the failed section of the examination upon the second retake or within six months of initially being approved to test, whichever occurs first, as provided in Subsection (4), the application shall be denied.

R156-55c-302d. Qualifications for Licensure - Master Supervisory Experience and Education Requirements.

In accordance with Subsections 58-55-302(3)(a)(i)(A) and 58-55-302(3)(b)(i), the minimum supervisory experience qualifications for licensure as a master plumber and residential master plumber are established as follows:

(1) An applicant shall demonstrate successful completion of 4000 hours of supervisory experience that includes each of

the following categories and minimum number of hours:

(a) supervising employees: 700 hours;
(b) supervising construction projects: 700 hours;
(c) cost/price management: 300 hours; and
(d) miscellaneous construction experience: 300 hours in
any one or more of the following: accounting/financial
principles, contract negotiations, conflict resolutions,
marketing, human resources and government regulation pertaining
to business and the construction trades.

(2) The following, or the substantial equivalent thereof,
as determined by the Board in collaboration with the Commission,
shall apply to the minimum supervisory experience qualifications
established in Subsection (1):

(a) supervisory experience shall be obtained while
licensed in the proper license classification as either a
journeyman plumber or a residential journeyman plumber;

(b) supervisory experience shall be obtained as an
employee of a licensed plumbing contractor, whose employer
covers the applicant with workers compensation and unemployment
insurances and deducts federal and state taxes from the
applicant's compensation;

(c) all supervisory experience shall be under the
immediate supervision of the applicant's employer as defined in
Subsection 58-55-102(20); and

(d) no more than 2000 hours of experience may be earned
during any 12-month period.

(3) An associate of applied science or similar or higher
educational degree, in accordance with Subsection 58-55-
302(3)(a)(i)(B), shall fulfill 2000 hours of the 4000 hour
supervisory experience requirement. Such an applicant shall
complete the remaining minimum 2000 hour supervisory experience
listed above in Subsection R156-55c-302d(1).

(a) The degree shall be accredited by one of the
following:

(i) Middle States Association of Colleges and Schools;
(ii) New England Association of Colleges and Schools;
(iii) North Central Association of Colleges and Schools;
(iv) Northwest Commission on Colleges and Universities;
(v) Southern Association of Colleges and Schools; or
(vi) Western Association of Schools and Colleges.

(b) The degree shall be in one of the following courses of
study:

(i) accounting;
(ii) apprenticeship;
(iii) business management;
(iv) communications;
(v) computer systems and computer information systems;

- (vi) construction management;
- (vii) engineering;
- (viii) environmental technology;
- (ix) finance;
- (x) human resources; or
- (xi) marketing.

R156-55c-501. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) engaging in the plumbing trade as an apprentice plumber or residential apprentice plumber on a commercial or industrial project when not under the immediate supervision of a journeyman plumber;

(2) engaging in the plumbing trade as an apprentice plumber or as a residential apprentice plumber on a residential project when not under the immediate supervision of a residential journeyman or journeyman plumber, except as provided in Subsection 58-55-302(3) ~~([e]e)~~ (ii);

(3) engaging in the plumbing trade as an apprentice plumber except in accordance with instructions of the supervising plumber;

(4) acting as a journeyman plumber or residential journeyman plumber while supervising more than two apprentice plumbers;

(5) failure as a licensed plumber to carry a copy of his current plumber's license on his person or in close proximity to his person when performing plumbing work or to display that license upon request of a representative of the division or any law enforcement officer; and

(6) failure as a plumbing contractor to certify ~~[an apprentice's]~~ work experience and supervisory hours when requested by a ~~[n-apprentice]~~ plumber who is or has been an employee of the plumbing contractor.

KEY: occupational licensing, licensing, plumbers, plumbing
Date of Enactment or Last Substantive Amendment: ~~[October 11, 2006]~~ 2008

Notice of Continuation: November 8, 2006

Authorizing, and Implemented or Interpreted Law: 58-1-106(1) (a); 58-1-202(1) (a); 58-55-101